



STATE OF WASHINGTON

SENTENCING GUIDELINES COMMISSION

Jefferson Building, PO Box 43124 • Olympia, Washington 98504-3124 • (360) 688-8511

MEETING MINUTES

January 10, 2025 9:00am – 12:00pm

1500 Jefferson Building, Room 2330

Olympia, WA 98516

And Zoom

Members Present:

Hon. Josephine Wiggs, Acting Chair
Hon. J. Wesley Saint Clair (proxy: Judge Wiggs/Greg Link)
Hon. Sharonda Amamilo
Greg Link
Secretary Cheryl Strange (proxy: Mac Pevey)
Ramona Brandes
Hon. Karen Donohue
Hon. Jeffery Swan
Commissioner Tye Menser
Kecia Rongen
Councilmember Carmen Rivera (proxy: Jeremiah Bourgeois)
Jeremiah Bourgeois
Senator Claire Wilson
Norrie Gregoire
Chief Brian Smith/Chief Kal Fuller
Rep. Gina Mosbrucker
Amy Anselmi (proxy: Mandy Fischer)
Dr. Vasiliki Georgoulas-Sherry
Hon. Veronica Galván
Dr. Esther Matthews
Jon Tunheim (proxy: Jason Walker)

Members Absent:

Rep. Tarra Simmons
Jennifer Redman
Rochelle Cleland

Guests:

Katherine Hurley, King County
Dept of Public Defense
Arthur Longworth, Team Child
Elisa Cozad, Team Child

Staff:

Keri-Anne Jetzer
Dr. Lauren Knoth-Peterson, PSPRC
Whitney Hunt, SOPB

I. CALL TO ORDER

Acting Chair Judge Wiggs called the meeting to order.

II. APPROVAL OF MINUTES

MOTION #25-01: APPROVE DECEMBER 2024 MEETING MINUTES

MOVED: Chief Brian Smith
SECONDED: Jeremiah Bourgeois
PASSED: Passed
ABSTAIN: None

III. JUVENILE BILL PROPOSALS

Keri-Anne and Ramona Brandes refreshed members on prior discussions that lead to these two motions being tabled.

Jeremiah Bourgeois supported the idea of changing the definition of ‘correctional institution’ to exclude juvenile facilities as it was originally written instead of reducing the penalty as listed in the tabled motion.

Norrie Gregoire suggested caution in moving forward so unintended consequences aren’t realized. Norrie communicated with WASPC’s jail liaison who replied that, as it relates to misdemeanors and gross misdemeanors, getting prosecuting attorneys to press charges in a county jail is difficult and that administrative rules and hearings provide more of a sanction and better outcomes than a court sentence would. However, as a felony, if Prison Riot was reduced from class B to class C, a desire to plea down to misdemeanors would be expected, which could negatively impact the ability to safely manage county jails. It was the jail liaison’s recommendation to not make the change so jails can be safely managed with the option of a felony charge. Chief Smith agreed that if a prosecuting attorney is pressing charges at a detention facility, there is a reason for it. The Chief added that he did not feel comfortable making a policy decision without speaking to the people who are using the law and potentially making unintended changes.

Judge Amamilo expressed concern about how much scrutiny of the adolescent factors is being applied to whether a management tool is being taken away. Ramona Brandes reminded members that youth are dealing with an overcrowding situation at Green Hill School, which contributes to acts of aggression committed by these youth. She was open to an amendment that RCW 9.94.010 shall not apply to any juvenile detention facilities. Katie Hurley supported modifying the statute to exclude JR institutions and juvenile detention facilities. She noted that there are still pathways to charge youth with assault or other applicable offenses if this change occurred.

Jason Walker looked up the 2021 amendment of the bill that changed the definition of correctional facility, and in section 5, he said the legislature specifically amended the definitions of Chapter 9.94 RCW, which all deal with crimes on correctional institution facilities. He said this indicates the change by the legislature was purposeful to make these crimes applicable to juvenile facilities specifically. And that’s not only applicable to Prison Riot, but also Persistent Prison Misbehavior and Possessing Narcotic Drugs on the Grounds of a Correctional Facility. Jason believed there was an indication that the change by the legislature was purposeful. Greg Link replied that

Chapter 9.94 RCW also includes general statutes regarding the structure and nature of correctional institutions. He contends that doesn't necessarily suggest they understood they were creating new criminal penalties.

Dr. Matthews shared that she was employed by DCYF as a researcher when these prison riot charges started happening. She said that this was not something JR asked for. Senator Claire Wilson said she was the prime sponsor of SB 5128 - Juvenile Medicaid Waiver bill. She explained that the change affecting prison riot and other offenses was an unintended consequence and was appreciative of the conversation. She supported separating JR from the prison riot statute because it was not intended to be used for juveniles. She shared that there is currently an infraction system being created within the JR system.

Judge Amamilo pronounced that now that it is known this was an unintended consequence, there is a responsibility to respond to it. She supported the removal of the application on JR facilities.

Elisa Cozad from TeamChild was asked to summarize the materials she shared with SGC members.

Ramona Brandes and Dr. Matthews agreed to amendments to the tabled motion.

MOTION #24-70: SUPPORT CHANGING RCW 9.94.010(2) TO READ:

~~(2) Every inmate of a correctional institution who is guilty of prison riot or of voluntarily participating therein by being present at, or by instigating, aiding, or abetting the same, is guilty of a class B-C felony and shall be punished by imprisonment in a state correctional institution for no not less than one year nor more than ten five years, which shall be in addition to the sentence being served.~~

(3) As used in this statute, the definition of a “correctional institution” shall not apply to a juvenile detention facility or a facility operated by the department of children, youth, and families for the purposes of this statute.

MOVED: Ramona Brandes

SECONDED: Dr. Matthews

PASSED: Yes - 12; No - 4

ABSTAIN: Mac Pevey, Kecia Rongen, Dr. Georgoulas-Sherry; Jason Walker, Norrie Gregoire, Chief Smith

Ramona Brandes and Judge Galván worked together to offer language on Motion 24-72 for the full commission's consideration. Judge Galván briefed members on the discussion behind the proposed language.

~~**MOTION #24-72: MOTION TO GIVE JUDGES THE DISCRETION TO RUN DISPOSITIONS CONCURRENTLY OR CONSECUTIVELY. IF RUN CONSECUTIVELY, JUDGES SHOULD ARTICULATE**~~

~~THEIR FINDINGS TO THE SAME EXTENT REQUIRED
UNDER MANIFEST INJUSTICE (related to Option #7)~~

MOTION TO SUPPORT CHANGES TO RCW 13.40.180 AS DRAFTED BELOW:

RCW 13.40.180 - Single disposition order—~~Consecutive~~ Concurrent terms and periods of community supervision when two or more offenses —~~Limitations—~~ Separate disposition order—Concurrent period of community supervision.

1. Where a disposition in a single disposition order is imposed on a youth for two or more offenses, the terms and periods of community supervision shall run ~~consecutively,~~ concurrently unless the Court finds that concurrent terms would be a manifest injustice.
2. If the court concludes that concurrent terms would effectuate a manifest injustice and imposes consecutive sentences, the court shall make written findings of its reasons for manifest injustice by clear and convincing evidence.
3. If the court finds that a concurrent term would be a manifest injustice and runs the terms consecutively, the terms shall be subject to the following limitations:
 - (a) Where the offenses were committed through a single act or omission, omission, or through an act or omission which in itself constituted one of the offenses and also was an element of the other, the aggregate of all the terms shall not exceed 150 percent of the term imposed for the most serious offense;
 - (b) The aggregate of all consecutive terms shall not exceed three hundred percent of the term imposed for the most serious offense; and
 - (c) The aggregate of all consecutive terms of community supervision shall not exceed two years in length, or require any payment of fines or the performance of more than 200 hours of community restitution.
- ~~(2 4)~~ Where disposition in separate disposition orders is imposed on a youth, the periods of community supervision contained in separate orders, if any, shall run concurrently. All other terms contained in separate disposition orders shall run consecutively- , unless the court concludes that consecutive sentences would be a manifest injustice and imposes concurrent sentences.
- (5) If the court concludes that consecutive sentences on separate disposition orders would effectuate a manifest injustice and imposes concurrent sentences, the court shall make written findings of its reasons for manifest injustice by clear and convincing evidence.

MOVED: Judge Galván
SECONDED: Norrie Gregoire
PASSED: Yes – 12; No – 0
ABSTAIN: Kecia Rongen, Dr. Georgoulas-Sherry, Jason Walker, Mac Pevey

IV. PREFILED BILL PROPOSALS

Dr. Lauren Knoth-Peterson informed members that the PSPRC’s racial and ethnic impact statement (REIS) white paper is available on the website, publicly announcing the PSPRC’s intention on producing racial and ethnic impact statements for the SGC this legislative session. They are estimating capacity to complete 3-5 REIS analyses. If the SGC is interested in a projection of racial disproportionality of any legislative bills, they should let her know.

Greg Link expressed concern that last session there was no record of the written testimony or position that the SGC has submitted for any legislative bill. Senator Wilson replied that each week she receives a report of any information that was submitted through the portal and uses that information in her decision-making. Greg clarified that the SGC's position is not making it into the bill reports for the historical record. Keri-Anne offered to testify on behalf of the SGC with any information the SGC would like the legislature to know about their position on a bill. Rep. Mosbrucker agreed that having someone to testify in person is the best way to get the position noticed but agreed that sending email to committee members is another option. Jeremiah Bourgeois and Dr. Matthews both offered to testify on behalf of the SGC if Keri-Anne was unable to.

HB 1149 – Preventing cruelty to animals

Keri-Anne briefed members on the bill. Ramona Brandes stated she was against increasing the penalty without knowing the reason for the proposed increase. There was discussion about the impacts of increasing from a gross misdemeanor to an unranked felony, such as the felony would count in future offender scoring, felony could expose some to potential immigration consequences, and research evidence showing that placing someone in custody can increase their likelihood to commit other crimes.

Greg Link remarked that other offenses found at seriousness level 4 are more egregious than Animal Fighting, such as Assault 2, Robbery 2, and Hit & Run-Injury.

Judge Swan was in favor of taking a position on the ranking of the Animal Fighting offenses but not commenting on the RCW 16.52.200 portion of the bill.

**MOTION #25-02: OPPOSE HB 1149 FOR THE FOLLOWING REASONS:
1) INCONGRUENT WITH PREVIOUS UNRANKED RECOMMENDATIONS, 2) INCREASED INCARCERATION COMPONENT AND 3) INCONGRUENT WITH OTHER SL 4 OFFENSES**

MOVED: Ramona Brandes
SECONDED: Greg Link
PASSED: Yes - 4; No - 5
ABSTAIN: Jason Walker, Dr. Vasiliki Georgoulas-Sherry, Kecia Rongen, Judge Wiggs, Judge Donohue, Commissioner Menser

MOTION #25-03: OPPOSE RCW 9.94A.515 PORTION OF HB 1149 (SECTION 7) INCONGRUENT WITH OTHER SL 4 OFFENSES

MOVED: Judge Swan
SECONDED: Commissioner Menser
PASSED: Yes - 9; No - 2
ABSTAIN: Jason Walker, Dr. Vasiliki Georgoulas-Sherry, Kecia Rongen, Judge Amamilo, Councilmember Rivera, Mac Pevey, Norrie Gregoire

SB 5094 – Concerning sexually explicit depictions of minors

SB 5105 – Concerning offenses involving fabricated depictions of minors

Keri-Anne briefed members on both bills which are very similar. Ramona Brandes commented that the addition of ‘identifiable’ minor in the statutory language change last year is what made the statute constitutional. Removing that requirement from both bills would run afoul of First Amendment protections. She added that the definition of obscene in SB 5105 is not a definition but refers to what is determined by common law and is not workable. Greg Link stated that he didn’t think the ‘identifiable’ makes it constitutional, that the statute is still on unconstitutional footing, and removing that language makes it worse. He mentioned that lawyers have been litigating the definition of obscene for 150 years and the definition used in SB 5105 does not offer a fix.

Judge Swan proposed the SGC not take a position and let the Legislature determine what the definition of obscene should be and whether or not a statute is constitutional.

Keri-Anne informed members that the SGC was opposed to the original bill last year due to concern that it would be unconstitutional.

MOTION #25-04: OPPOSE SB 5094 AND SB 5105/HB 1169 DUE TO CONCERNS ABOUT CONSTITUTIONALITY OF FABRICATED DEPICTIONS

MOVED: Ramona Brandes

SECONDED: Commissioner Menser

PASSED: Yes - 11; No – 1

ABSTAIN: Dr. Georgoulas-Sherry, Kecia Rongen, Mac Pevey, Norrie Gregoire, Amy Anselmi

HB 1091 – Concerning sexually violent predators’ ineligibility to earn supervision compliance credit.

HB 1119 – Concerning supervision compliance credit

Keri-Anne briefed members on both bills as they have some similarities. Mac Pevey talked about the HB 1119, adding that it was DOC request legislation based on things they have learned since the inception of compliance credit.

Referring to HB 1119, Ramona Brandes stated she is opposed to using blanket language to encapsulate all sentencing alternatives because it doesn’t allow for flexibility. She believes the legislature should make individualized determinations on where a sentencing alternative is applied when creating new alternatives. However, she does support removing the language related to individuals making progress towards the goals of their supervision plan as she believed that it can be subjective.

Judge Wiggs left the meeting and Greg Link took over as Acting Chair.

MOTION #25-05: SUPPORT HB 1119 EXCEPT FOR THE CLAUSE THAT ADDS BLANKET LANGUAGE ADDING SENTENCING ALTERNATIVES

MOVED: Ramona Brandes
SECONDED: Jeremiah Bourgeois
PASSED: Yes - 11; No – 2
ABSTAIN: Dr. Vasiliki Georgoulas-Sherry, Kecia Rongen, Mac Pevey, Jason Walker, Commissioner Menser

Mac Pevey shared that DOC has an MOU with DSHS to supervise individuals on LRA but they may also have an outstanding concurrent criminal cause that DOC will supervise as well. A few members agreed that there should be incentive for all individuals to comply and didn't understand the reason for not allowing those on LRA to receive compliance credits.

Greg Link observed that anyone committed post-2006/2007 is probably on lifetime supervision. Jason Walker inquired if granting compliance credit would be illusory for those on LRA if they are serving lifetime supervision. Dr. Matthews suggested that even if they are not getting the credit, the act of being included could, in and of itself, provide hope.

MOTION #25-06: OPPOSE HB 1091

MOVED: Ramona Brandes
SECONDED: Dr. Matthews
PASSED: Yes - 11; No – 2
ABSTAIN: Dr. Vasiliki Georgoulas-Sherry, Kecia Rongen, Mac Pevey, Chief Smith, Judge Swan

HB 1131 – Concerning clemency and pardons

Jason Walker asserted that the bill allows DOC to supervise an individual who is released on clemency and believes that would give the Governor another tool. Keri-Anne added that the bill also expands the Clemency & Pardons Board (C&PB) and makes changes to some C&PB processes.

Greg Link reminded members that the SGC has in the past several years agreed that there needs to be a second look process. At the very least that included a more robust clemency process.

MOTION #25-07: SUPPORT HB 1131

MOVED: Ramona Brandes
SECONDED: Dr. Matthews
PASSED: Yes - 14; No – 0
ABSTAIN: Dr. Georgoulas-Sherry, Kecia Rongen, Mac Pevey, Amy Anselmi

HB 1161 – Establishing the veteran employability training and career advancement for reentry program

Keri-Anne briefed members on this bill and also on a similar bill that the SGC voted to support last year. Greg Link remembered there was quite a bit of discussion on reentry during the work on the 2019 SRA report and during the CSTF. There was a lot of support for reentry services, he recalled.

MOTION #25-08: SUPPORT HB 1161

MOVED: Dr. Matthews

SECONDED: Jeremiah Bourgeois

PASSED: Yes - 15; No – 0

ABSTAIN: Dr. Georgoulas-Sherry, Kecia Rongen, Mac Pevey

HB 1137 – Establishing uniform policies and procedures within DOC facilities relating to disciplinary proceedings administrative segregation.

Keri-Anne briefed members on the bill and reminded members that DOC presented in November 2022 when they started reducing use of restrictive housing.

Judge Swan expressed concerned that this bill is more administrative than sentencing-related and wondered if it was appropriate for the SGC to take a position on it. Ramona Brandes replied that how someone is housed may not normally be within the SGC’s purview, but when it is detrimental to an individual’s mental health, she believes it is in the SGC’s arena. Dr. Matthews added that research reveals the use of restrictive housing is disproportionate toward Black individuals. Jeremiah Bourgeois noted that, through his own experience, time in restrictive housing absolutely impacts recidivism. Keri-Anne informed members that, in the past, SGC has taken positions on programming with a view of ‘quality over quantity’ as related to time that is served in confinement.

Judge Swan clarified that his question was an academic one as to whether it was something that this body should consider and not a reflection on whether he supported or opposed restrictive housing. Greg Link commented that there is a gray area on topics that the SGC struggles with at times.

MOTION #25-09: SUPPORT HB 1137

MOVED: Ramona Brandes

SECONDED: Jeremiah Bourgeois

PASSED: Yes - 8; No – 2

ABSTAIN: Dr. Georgoulas-Sherry, Kecia Rongen, Mac Pevey, Norrie Gregoire, Amy Anselmi, Judge Swan

SB 5133 – Concerning departures from the guidelines for caregiver status

Jason Walker referred to a 2005 case *State v Law* which talks about mitigating factors. He said it defines that the “SRA requires factors that serve as justification for an exceptional sentence to relate to either the crime, the defendant’s culpability for the crime, or the defendant’s past criminal record.” This proposed mitigating factor breaks

with that definition, which is not required by due process. He suggested the Parenting Sentencing Alternative could be used instead of this mitigating factor.

Ramona Brandes replied that this bill is meant to allow the courts the ability to consider the harm caused if a minor or elder would be losing their primary caregiver.

MOTION #25-10: SUPPORT SB 5133

MOVED: Judge Swan

SECONDED: Ramona Brandes

PASSED: Yes - 12; No – 1

ABSTAIN: Dr. Georgoulas-Sherry, Kecia Rongen, Mac Pevey, Amy Anselmi

Keri-Anne informed members that HB 1125 should have a hearing scheduled for Jan 23rd. There is a Special SGC meeting called for next Friday at which members will be discussing bills with hearings scheduled for the following week. She reminded members that during Special meetings, the body can only vote on items on the agenda.

V. OTHER BUSINESS

Dr. Matthews provided an update on the Jail Modernization Task Force. She remarked that at the last meeting TF members talked about definitions and brainstorming the types of recommendation the TF would make, mostly about how to get more behavioral health services in facilities, how to come up with funding, and what exactly jail modernization is.

Dr. Georgoulas-Sherry reported that the Director of Contract and Legal Services is moving on so the request for an AG/AAG opinion is on hold until a successor is hired.

Keri-Anne shared that Dr. Knoth-Peterson had given two presentations during the Legislative Assembly Days and the SOPB presented as well on their recommendations on a prior report which may find itself in a bill.

VI. PUBLIC COMMENT

No member of the public wished to address the members.

VII. ADJOURNMENT

APPROVED AND ADOPTED BY THE SENTENCING GUIDELINES COMMISSION



3/14/2025

Judge J. Wesley Saint Clair (Ret), Chair

Date